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Attorneys for Federal Defendants

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF HAWAII

|                                  |   |                            |
|----------------------------------|---|----------------------------|
| ILIO'ULAOKALANI COALITION,       | ) | CIVIL NO. 04-00502 DAE BMK |
| a Hawaii, nonprofit corporation; | ) |                            |
| NA'IMI PONO, a Hawaii            | ) | DEFENDANTS' UNOPPOSED      |
| unincorporated association; and  | ) | MOTION FOR EXTENSION OF    |
| KIPUKA, a Hawaii unincorporated  | ) | TIME TO RESPOND TO         |
| association,                     | ) | PLAINTIFFS' MOTION TO      |
|                                  | ) | CLARIFY; CERTIFICATE OF    |
| Plaintiffs,                      | ) | SERVICE                    |
| v.                               | ) |                            |
|                                  | ) |                            |
| ROBERT M. GATES, Secretary of    | ) | Non-Hearing Motion         |
| United States Department of      | ) |                            |
| Defense; and FRANCIS J. HARVEY,  | ) |                            |
| Secretary of the United States   | ) |                            |
| Department of the Army,          | ) |                            |
|                                  | ) |                            |
| Defendants.                      | ) |                            |
|                                  | ) |                            |

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DEFENDANTS' UNOPPOSED MOTION FOR AN EXTENSION OF TIME  
TO RESPOND TO PLAINTIFFS' MOTION TO CLARIFY

Defendants hereby request an extension of time to respond to Plaintiffs' Motion to Clarify December 29, 2006 Order Setting Interim Injunction. Defendants' response is currently due on January 23, 2007. The requested extension would extend the date by which Defendants must respond to Plaintiffs' Motion to Clarify to January 30, 2007. This motion is unopposed and is submitted pursuant to LR 6.2(b).

This extension is sought to allow Defendants to fully consider the proposed relief sought by Plaintiffs in their motion to clarify and to allow Defendants to prepare a complete and thoughtful response. In addition, the extension will allow lead counsel for Defendants, James Gette, to meet obligations in other cases including depositions during the week of January 21, 2007.

Timely requests for enlargement of time are liberally granted under Federal Rule of Civil Procedure 6(b). See, e.g., Galdi v. Jones, 141 F.2d 984, 992 (2d Cir. 1944) (upholding enlargement of time to move or plead under Rule 6(b)); Creedon v. Taubman, 8 F.R.D. 268, 269 (N.D. Ohio 1947) (stating, "Extensions always may be asked for, and usually are granted upon a showing of good cause, if timely made . . . ."); cf. Arroyo v. Wheat, 102 F.R.D. 516, 518 (D. Nev. 1984) (upholding enlargement of time for service of summons and complaint, stating "liberal extensions of time are permitted under Rule 6(b)").

Counsel for Defendants contacted Plaintiffs' counsel, David Henkin, Esquire, who authorized counsel for Defendants to represent that Plaintiffs do not oppose this motion based upon Defendants' agreement currently to conduct only Stryker-specific training that is described in Plaintiffs' motion to Clarify and Defendants' further assurance that this agreement will remain in effect until dissolved by Defendants upon two weeks advance notice to Plaintiffs, to allow Plaintiffs an opportunity to seek an expedited decision from the Court on their pending motion, if they so choose.

Based upon the agreement of the parties and Defendants' desire to present a comprehensive and thoughtful response to Plaintiffs' Motion to Clarify, Defendants seek this extension of time until January 30, 2007, in which to respond to Plaintiffs' Motion to Clarify.

DATED: January 23, 2007, at Honolulu, Hawaii.

EDWARD H. KUBO, JR.  
United States Attorney  
District of Hawaii

/s/ Harry Yee

By \_\_\_\_\_  
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IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF HAWAII

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| 'ILIO'ULAOKALANI COALITION, a  | ) | CIVIL NO. 04-00502 DAE-BMK |
| Hawai'i nonprofit corporation; | ) |                            |
| NA 'IMI PONO, a Hawai'i        | ) | CERTIFICATE OF SERVICE     |
| unincorporated association;    | ) |                            |
| and KIPUKA, a Hawai'i          | ) |                            |
| unincorporated association,    | ) |                            |
|                                | ) |                            |
| Plaintiffs,                    | ) |                            |
|                                | ) |                            |
| vs.                            | ) |                            |
|                                | ) |                            |
| ROBERT M. GATES, Secretary of  | ) |                            |
| Defense; and FRANCIS J.        | ) |                            |
| HARVEY, Secretary of the       | ) |                            |
| United States Department of    | ) |                            |
| the Army,                      | ) |                            |
|                                | ) |                            |
| Defendants.                    | ) |                            |
|                                | ) |                            |

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that, on the date and by the method of service noted below, a true and correct copy of the foregoing was served on the following at their last known addresses:

Served Electronically through CM/ECF:

David L. Henkin      [dhenkin@earthjustice.org](mailto:dhenkin@earthjustice.org)

Isaac H. Moriwake      [imoriwake@earthjustice.org](mailto:imoriwake@earthjustice.org)

Attorneys for Plaintiffs

DATED:      January 23, 2007, at Honolulu, Hawaii.

/s/ Jan Yoneda

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